Case 1:07-cv-06366	Document 1	Filed 11/08/2007	Page 1 of 13	
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IN THE UNIT	TED STATES	S DISTRICT COU CT OF ILLINOIS	RT J.N NOV X	8 ₁ 2007
1,01111			_ MICHAEL W.	DOBBINS
TAHIR M. AFRIDI)		CLERK, U.S. DIS	TRICT COURT
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-PETITI	ONER,	No:		
)			
Vs.)	07cv6366		
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or any other incumbent in o	office.			
)			
2. DISTRICT DIRECTOR,	,)			
USCIS. CHICAGO.)			
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-RESPC	ONDENTS.)	OF DEPORTOR	TON AND	X
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AND REQUEST	SCA SECTION	ON 2241 ETC.)		
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NOW COMES, pe	titioner TAI	IIR M. AFRIDI,	by his attorney	7
		CLAY A	\sim \sim \sim	
RAYMOND J. SANDERS	s, submits this	s petition for Writ	of Habeas Corpus	, T
to release the detention and	d custody of t	he respondents, and	d in support state:	S
	·			

as follows:

INTRODUCTION AND PURPOSE:

The Petitioner has been in the custody of the Respondent and is 1. presently detained at the Broadview Center, within the jurisdiction of this Court. It is feared that if the petitioner is not released, he will be deported to Pakistan, his pending application to reopen filed before the Immigration Court for adjustment of his status will become moot and or waived he and will be deprived of his eligibility for adjustment of his status as permanent resident of USA.

JURISDICTION:

2. This Court has jurisdiction to entertain this petitions pursuant to 28 U.S.C. § 2241; 28 U.S.C. §1331, and 28 U.S.C § 1361 etc.

VENUE:

3. Petitioner is held in custody and detained at Broadview Center for Detention in Chicago, Illinois within the jurisdiction of this Court and therefore Venue is proper.

FACTUAL BACKGROUND FOR RELIEF CLAIMED:

4. The petitioner arrived in USA April 9, 2000 as a non-immigrant Visitor B/1-B/2 Visa. He was authorized to remain inn USA up to October 8, 2000. Ace Movers & Rentals, Inc. filed an application for labor certification pursuant to rules in the office of the Virginia Employment Commission (Case No: 0146A674) on April 26, 2001 duly completed Forms MA-750A and B as required, which petition was thereafter certified by the Certifying Officer of the United States Department of Labor on March 28, 2002. The copy of the letter acknowledging the application for Labor Certification and the certification of the Certifying Officer is attached as Exhibit A. and A/1.

- 5. Therefore pursuant to 8 C.F.R §§ 245.10(a)(2), 1245.10(a)(2), the petitioner is grandfathered and entitled to stay in this country and eligible for Statutory relief for adjustment of status as permanent Resident of USA as the labor certification application was filed before April 30, 2001.
- 6. Petitioner was placed under removal proceeding with allegations of overstaying following Notice to Appear on March 25, 2003. However the Immigration Judge ignoring his grandfathered rights of eligibility, on February 23, 2003 entered order of voluntary departure without his consent (His attorney waive right of appeal without his consent) and in alternative his removal to Pakistan.(Ex.B.)
- 7. The petitioner having not consented for voluntary departure and or waiver of right of appeal, he filed petition to vacate the said order on the ground of ineffective assistance of counsel. The Immigration Judge denied this ground, to which the Appeal to Board of Immigration was filed and the petitioner being aggrieved of the decision of BIA file the Review petition in the US Court of Appeals in 7th. Circuit. The Seventh Circui9t by order denied the review petition stating that it had no jurisdiction.
- 8. Petitioner remained in United States as he believed that he is eligible for and entitled to the adjustment of his status as permanent Resident

of USA and if he will voluntarily leave USA, his rights for adjustment of status will be lost, despite the fact he is eligible as being grandfathered as stated.

- 9. The issue of the eligibility of the petitioner as he being grandfathered and entitled to statutory relief for adjustment of Status, has never been discussed and or decided either by Immigration Judge, or by Board of Immigration Appeals and by the Seventh Circuit.
- 10. Petitioner states that he has filed the Motion to reopen before the Immigration Judge for adjustment of his status as Permanent Resident of USA as the quota in his employment category being opened for the priority date of the petitioner April 26, 2001.
- Pakistan pursuant to the order of Immigration Judge as he failed to leave USA. Petitioner states if he is deported to Pakistan, his Motion to reopen and/or reconsider the orders of removal entered by the Immigration Judge and for adjustment of his status as permanent Resident of USA will become moot and his rights will be lost for ever, and he will suffer irreparable injury which will not be compensated by any means. The petitioners due process rights are violated in order to deprive of his statutory right which he is otherwise entitled to.

RELIEF PRAYED:

- A. Petitioner prays that, this Court issue a Writ of Habeas Corpus directing the Respondents to bring the petitioner to this Court at a time to be specified and explain that why the Petitioner should not be released from the custody immediately, without bond, AND ENTER ORDER STAYING DEPORTATION OF THE PETITIONER
- B. This Court issue a declaratory judgment stating that the petitioner is eligible to be released and that the detention and deportation of petitioner to Pakistan will deprive of his right to become lawful permanent resident to which he eligible as his rights are being grandfathered under the law.
- C. That this Court order petitioner to be released forthwith from the detention and custody without bond or in the alternative setting reasonable amount of bond.

Dated this 08 day of November 2007

Respectfully submitted,

Raymond J. Sanders.\

Attorney for Petitioner.

2809 W. Devon Ave.

Chicago. Ill. 60659 Tel: (773) 761 0090.

PERVAIZ S MIAN

18477762141 03/12/2005

COMMONWEALTH of VIRGINIA

Virginia Employment Commission

3751 Nine Mile Road, Suite C Richmond, VA 23223

Pr. Thomas T. Towberman Commissioner

Phone: (804) 236-2708. Far: (804) 235-2709

MR MAOSOOD HAMID MIR. MIR LAW ASSOCIATES LLC 9600 RIVER ROAD POTOMAC MD 20854

Re: Application for Alien Employment Certification

Employer : ACB Movers & Rentals Inc.

Alien(s) : Tahir AFRIDA Cese No : 0146A674 : Tahir AFRIDI

Receipt Date: April 26, 2001

Dear Mr Mir:

e para la companya di mangantan di mangantan di mangantan di mangantan di mangantan di mangantan di mangan di m Mangantan di mangan Subject: Receipt of Application

Your application for Alien Employment Certification has been received in this office. Cases are processed in the order received. As of this date, we are reviewing Reduction in Recruitment (RIR) cases received in March 2001 and non-RIR cases received in February 2001.

In order to allow our staff more take for the processing of applications, it is requested that you not call this office regarding your case. When the application is processed, you will be contacted by mail should additional documentation or correction be required.

Should it become necessary to contact this office, please limit your balls to the hours of 2-4 PM. Monday-Friday, if possible.

Your cooperation is most appreciated, and should result in more expeditious processing of your application.

Reminder - All new permanent applications for Northern Virginia should be mailed to: 3751 Nine Mile Rd Suite C Richmond, VA 23223

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Sincerely,

Marknerita Green

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The Virginia Employment Commission is an equal opportunity employer/program.

Auxiliary aids and services are available upon request to individuals with disabilities.

Telecomminication Device for the Deaf (804) 371-8050

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U.S. DEPARTMENT OF JUSTICE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW IMMIGRATION COURT CHICAGO, IL. 60603

In the Matter of:

Takir M. AFRIDI

Case No.: A 95925145

RESPONDENT

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

Upon the basis of respondent's admissions, I have determined that the respondent is subject to removal on the charge(s) in the Notice to Appear. The respondent has made application solely for voluntary departure in lieu of removal.

It is FURTHER ORDERED:

the Notice to Appear.

Į	3	That the respondent post a voluntary departure bond in the amount of
		with the Immigration and Naturalization Service on or before
τ	3	That the respondent shall provide the Immigration and Naturalization Service travel
_		documentation sufficient to assure lawful entry into the country to which the alien is departing within 60 days of this order, or within any time extensions that may be granted
		by the Immigration and Naturalization Service.
C	3	Other
order	shall be	R ORDERED that if any of the above ordered conditions are not met as required, the above withdrawn without further notice or proceedings and the following shall thereupon become effective; respondent shall be removed to
	ectately a	'
		R ORDERED that if respondent fails to depart as required, the above order shall be ithout further notice or proceedings and the following order shall become immediately
		condent shall be removed to on the charge(s) in

You have been granted voluntary departure from the United States pursuant to Section 2408 of the Immigration and Nationality Act. Remaining in the United States beyond the authorised date will result in your being found ineligible for certain forms of relief under the Immigration and Nationality Act (see Section A. below) for a period of ten (10) years from the date of scheduled departure. Your voluntary departure bond, if any, will also be breached. Additionally, if you fail to voluntarily depart the United States within the time period specified, you shall be subject to a civil penalty of not less than \$1000 and not more than \$5000.

A. THE FORMS OF RELIÉF FROM REMOVAL FOR WHICH YOU WILL BE INELIGIBLE ARE:

- Voluntary departure as provided for in Section 240B of the Immigration and Nationality Act;
- Cancellation of removal as provided for in Section 240A of the immigration and Nationality Act; and
- 3) Adjustment of status or change of status as provided for in Section 245, 248 or 249 of the Immigration and Nationality Act.

This written notice was provided to the alien in English. Oral notice of the contents of this notice was given to the alien in his/her native language, or in a language he/she understands.

James R. Fyranoto M

Immigration Judge

Date:

Бу._____

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UNITED STATES DEPARTMENT OF JUSTICE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW IMMIGRATION COURT, CHICAGO.

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IN THE MATTER OF:)	A STATE OF THE STA
TAHIR M. AFRIDI, Respondent./ Petitioner,)) A95 925 145)	120V C 9 200N
MOTION TO REOPEN A	AND OR RECONSIDER	TOTAL CONT

NOW COMES, Tahir M. Afridi, by his attorney Raymond J. Sanders, and move this Court to reopen this case. In support states as follows:

- The Petitioner is grandfathered and eligible pursuant to 8 C.F.R §§ 245.10(a)(2), 1. 1245.10(a)(2) for adjustment of his status as a permanent Resident of USA to stay in the United States, as he is the beneficiary of the approvable Labor Certification Application filed on April 26, 2001 in the office of Commonwealth of Virginia, Virginia Employment Commission.
- Petitioner therefore submits this Motion for permission to file and process his 2. Application to Register Permanent Residence and adjust his status to that of a permanent Resident of USA.
- The date on which his labor certification was accepted for filing was April 26. 3. 2001 and this date is considered to be the priority date, and the quota for adjustment being open in his category, the petitioner is eligible for adjustment of his status to that es permanent Resident Status as provided in Sec. 245(i) of Life Act. IIRIRA.
- Petitioner therefore request that the prior order of removal entered on February 4. 23, 2005 be vacated for adjustment of the Status of the petitioner.

- 5. Petitioner states that on this date, the petitioner is under detention and therefore not in a position to file the Application for adjustment of his status. Petitioner craves leave to file the petition upon his release from detention.
- 6. Petitioner requests that pending this Motion to reopen for adjustment of status of permanent status as stated, it is necessary that this court enter order to release the petitioner from detention and INS custody where he is presently held for deportation.
- 7. Petitioner states that if he is deported to Pakistan as previously ordered by this Court on February 23, 2005, his present motion to reopen will be considered as moot and or waived, and his rights to be adjusted to the permanent resident status will be seriously prejudiced. Therefore it is necessary that this court enter order to release the petitioner from the INS custody, so that he can appear before this Court to exercise his rights of becoming permanent resident. His detention and ultimate deportation will severely harm him and cause irreparable damages that will not be compensated by any means.

WHEREFORE, the petitioner prays that:

- 1. The Court vacate the prior order of removal entered February 23, 2005 and,
- 2. process application of the petitioner for permanent Resident Status. and,
- 3. Enter order to forthwith release the petitioner from detention in order to prevent his deportation to Pakistan.

Respectfully submitted,

Raymond J. Sanders.\
Attorney for Petitioner.

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CERTIFICATE OF SERVICE

The undersigned certifies that he served the accompanying Motion to Reopen and/or Reconsider to the District Counsel, Department of Homeland Security at 55 E. Monroe Street, suite 1700, Chicago, Illinois 60603 on November & 2007.

9

Raymond J. Sanders

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